

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

MARIA M. CORTES-COBOS
LESTER ORTIZ, the conjugal partnership
established by them, CRISTINA A. CRUZ-
CORTES, LESTER ENRIQUE ORTIZ-
CORTES and GABRIEL I. ORTIZ-CORTEZ

Plaintiffs

vs

CIVIL 04-1608CCC

LABORATORIOS ABBOT PUERTO RICO,
INC. and/or ABBOT HEALTH PRODUCTS,
INC.,
METROPOLITAN LIFE INSURANCE
COMPANY a/k/a METLIFE, and its
subsidiary or department MetLife Disability
a/k/a MetDisAbility

Defendants

O R D E R

This case, originally filed in the local court was removed to this court pursuant to ERISA. Plaintiff María Cortés-Cobos filed this suit against her former employer Laboratories Abbott Puerto Rico, Inc. d/b/a Abbott Health Products, Inc. (Abbott) and the Metropolitan Life Insurance Company and its subsidiary or department, MetLife Disability (MetLife). The action arises from the discontinuance of short- term disability benefits under a policy issued by MetLife which she obtained through her employer.

Both parties filed Motions for Judgment on the Pleadings (docket entries 35 and 38), as well as oppositions (docket entries 36 and 39, respectively). The action is now before us on Abbott's Motion to Strike Letter Submitted by Plaintiff in Support of her Opposition to Defendant's Brief in Support of Joint Motions for Judgment on the Administrative Record filed April 6, 2005 (**docket entry 47**). Plaintiff opposed the motion (**docket entry 48**), and Abbott replied (**docket entry 49**).

The piece of evidence that plaintiff seeks to enter into evidence is a letter from Abbott to her dated October 24th 2003, four months after MetLife's final termination letter.

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Defendants identify various joint motions in this action in which plaintiff indicated that the administrative record was to be the basis for the judgment on the pleadings and, therefore, they contend that she is going against her own stipulations. One such example is the Joint Motion for Extension of Time to File Legal Memoranda, filed November 30 2004, (docket entry 33), which refers to "legal memoranda on the administrative record."

The letter is not new evidence that plaintiff obtained after she stipulated that the Court would enter its judgment on the administrative record; it is mentioned in her amended complaint filed two months before. Additionally, because we note that the contents of the letter do not contain any information as to the state of her health contemporaneous to the time period on which the decision was made, Abbott's Motion to Strike Letter Submitted by Plaintiff (**docket entry 47**) is GRANTED. The arguments made by plaintiff with reference to the letter in support of her motion for judgment will not be considered.

SO ORDERED.

At San Juan, Puerto Rico, on July 21, 2005.

S/CARMEN CONSUELO CEREZO
United States District Judge